

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WALTER S. COOPER,

Plaintiff,

v.

PUBLIC RECORDS DISCLOSURE
REQUEST, et al.,

Defendants.

Case No. C15-1768 RSM-BAT

**REPORT AND
RECOMMENDATION**

Plaintiff Walter S. Cooper, proceeding pro se and *in forma pauperis*, filed a 42 U.S.C. § 1983 complaint against “Public Records Disclosure Request,” Ethan Rogers, Myralynn Nitura, and the King County Prosecuting Attorney’s Offices for failure to turn over public records which he contends reveals that the crime for which he was convicted is a non-violent crime. Mr. Cooper seeks \$850,000.00 and \$1,500.00 per day in damages. Dkt. 9. The Court declined to serve the complaint because Mr. Cooper had failed to state a claim upon which relief may be granted. He was advised that his public records request claim is subject to dismissal as there is no constitutional right to public disclosure of government documents and that any claim relating to his conviction based on a non-violent crime is also subject to dismissal under *Heck v. Humphrey*, 512 U.S. 477, 487 (1994). However, the Court granted Mr. Cooper leave to file an amended complaint. Dkt. 8.

1 In response, Mr. Cooper filed a letter stating: "Since I am not properly filed I ask that the
2 Court disregard the complaint as unfiled in the Case No. C15-1768 RSM-BAT." The Court
3 recommends **DISMISSING** this lawsuit without prejudice pursuant to Federal Rule of Civil
4 Procedure Rule 41(a).

5 **DISCUSSION**

6 Rule 41(a) governs the voluntary dismissal of an action in federal court. Rule 41(a)(1)
7 provides that a plaintiff may dismiss an action without a court order by filing a notice of
8 dismissal before the opposing party serves either an answer or a motion for summary judgment.
9 Unless the notice or (stipulation signed by all parties that have appeared) states otherwise, the
10 dismissal shall be without prejudice.

11 The complaint in this matter has not yet been served and therefore, there is no opposing
12 party in this matter. Therefore, this action may be dismissed.

13 **CONCLUSION**

14 The Court recommends **DISMISSING** this lawsuit without prejudice. Any objections to
15 this Recommendation must be filed no later than **Monday, January 18, 2016**. The Clerk should
16 note the matter for **Wednesday, January 20, 2016**, as ready for the District Judge's
17 consideration if no objections are filed. Objections shall not exceed ten pages. The failure to
18 timely object may affect the right to appeal.

19 DATED this 28th day of December, 2015.

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BRIAN A. TSUCHIDA
22 United States Magistrate Judge
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